Table of Contents



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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March 1, 2002

Captain Frank Merriman
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Los Angeles, California 90040

Dear Captain Merriman:

Re: J.S.I.D. File No.: 01-0269
L.A.S.D. File No.: 001-07786-1334-052

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 3, 2001 fatal shooting of Ricardo Esparza by Los Angeles Sheriff's Deputies Jason Diplock, James McGee, and Steven Vranek. We have reviewed reports from the Los Angeles County Sheriff's Department Homicide Bureau and the Los Angeles County Department of Coroner, as well as interview statements of both civilian and law enforcement witnesses. The District Attorney's Command Post was notified of this shooting at 3:35 a.m. on April 3, 2001. District Attorney Senior Investigator [redacted] and Deputy District Attorney Charles Clay from the District Attorney Response Team responded to the shooting scene shortly thereafter and were given a briefing and a walk-through of the scene. Upon concluding its review, this office has determined that the actions of Deputies Diplock, McGee, and Vranek were lawful acts in self-defense and defense of others.

FACTUAL ANALYSIS

On April 2, 2001 four deputies from the Lakewood Sheriff's Station responded to [redacted] in [redacted] to investigate a call of a "violently insane person creating a disturbance" at the location. Investigators later learned from [redacted] Esparza's [redacted] with whom he shares the residence, that Esparza had struck and pushed his [redacted] after she chastised him for not having performed any chores that day. She became afraid and went to a [redacted] apartment and asked them to telephone the police.

As the deputies approached apartment [redacted] they could hear Esparza yelling incoherently inside the apartment. They pushed open the front door and saw Esparza standing in the living room holding a

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butcher knife with a blade approximately 8 inches in length in his right hand. In his other hand were another kitchen knife, a metal skillet, and a metal cooking spoon. Esparza turned toward the deputies and began yelling at them to, "Get out of here." Esparza walked to the front door and held the knife in his right hand by the tip of its blade and held it over his shoulder in a "throwing" manner. He refused to obey repeated commands given in both English and Spanish to drop the weapon. Deputies used two less than lethal weapons in an attempt to secure Esparza's compliance. Deputies fired several beanbag shotgun and "Arwen" rubber projectile rounds at Esparza as he continually challenged them and refused to comply with their commands to drop the knife. Although Esparza was struck numerous times by projectiles from both weapons, he appeared to be unaffected by any of the Arwen or beanbag rounds. He continued to hold the knife over his head by the blade and made throwing motions toward the deputies as he held the frying pan in his left hand as a shield.

Several times Esparza retreated into the apartment, closing the door behind him and leaving the deputies outside the front door. He later returned after a moment, opened the door and continued making throwing motions with the knife. Finally, Esparza closed the door and did not return. Deputies, concerned that he may be arming himself with a firearm or attempting to escape through the rear of the apartment, opened the door. When deputies entered the apartment, they saw that Esparza had further retreated into a bedroom at the rear (east) of the location and closed the door. Esparza opened the door and stepped towards the deputies, still holding the knife over his head and motioning as if he were going to throw it. A deputy ordered him to drop the knife twice, in Spanish. Instead, Esparza took a "pitcher's stance," raised the knife in his right hand and shifted his weight back as though "winding up" to throw it at Deputies McGee, Vranek, and Diplock, who were assembled at the threshold of the front door approximately 10 to 15 feet away. Deputy McGee stood on the right (south) side of the threshold, Deputy Vranek stood on the left (north) side, and Deputy Diplock stood behind Deputy McGee on the right side.

As Esparza stepped forward and his right arm began to move forward, Deputies McGee, Vranek, Diplock each formed the opinion that Esparza was going to throw the knife at them. Each officer, based on his training and experience, was aware that a knife could penetrate a bulletproof vest and that a suspect armed with a knife poses at least as great a threat as one armed with a firearm. Each stated that they feared for their lives and that of the other deputies present, and fired their service pistols at Esparza as he threw his knife at them. Deputy McGee fired three or four rounds at Esparza from his Beretta model 92FS nine millimeter semi-automatic service pistol. Simultaneously, Deputy Vranek fired one round at Esparza from his Beretta model 92FS nine millimeter semi-automatic service pistol and stepped to his left to avoid being struck by the knife. Deputy Diplock fired one round from his Beretta model 92FS nine millimeter semi-automatic service pistol and stepped to his right behind the front door threshold to avoid being struck by the knife.



After the shots were fired, Esparza appeared to reach for his right rear pants pocket. As he did so, Deputy Vranek fired one additional shot because he believed Esparza might be reaching for another weapon. Deputy McGee made the same observation and may have fired one additional round at Esparza as well. Esparza then went back into the bedroom and closed the door. When deputies entered, they observed Esparza lying face down on the floor next to the bed, where they handcuffed him. Deputy McGee located and recovered the second knife from Esparza's left rear pants pocket.

Los Angeles County Fire Engine #23 and Rescue Squad #98 were summoned to the location to treat Esparza's wounds. Esparza was placed into the back of an ambulance and transported to Long Beach Memorial Hospital. Two paramedics and an Emergency Medical Technician treated Esparza en route to the hospital. Esparza was pronounced dead at 1:02 a.m. by Emergency Room physician Dr. Stafford.

A total of seven expended shell casings, three expended bullets, and two kitchen knives were recovered inside and immediately outside of apartment [redacted] Subsequent analysis of these items determined that one of the expended cartridge cases and the bullet that proved fatal to Esparza were fired by Deputy Vranek. Two of the bullets and four of the expended cartridge cases were fired by Deputy McGee. The remaining bullet and expended cartridge casing were fired by Deputy Diplock. One of the bullets fired by Deputy McGee and the bullet fired by Deputy Diplock were found in the bedroom. One knife was recovered in the bedroom where Esparza fell. The other was recovered in the living room

Deputy Medical Examiner Raffi S. Djabourian, M.D., performed an autopsy on Esparza on April 5, 2001. He attributed the cause of death to a single gunshot wound to the left chest. Although Esparza suffered two other penetrating gunshot wounds to the right lower leg and left thigh, neither was life-threatening or ultimately fatal. Djabourian also observed numerous blunt force trauma injuries to Esparza's face, left chest, right arm, hands, and left subabdominal region. Many of the abrasions and contusions were nonspecific, however, Djabourian opined, the larger injuries were consistent with "rubber bullet or beanbag-type projectiles." Of the three bullets that struck Esparza, only the fatal bullet was recovered. A toxicological analysis of Esparza's post-mortem blood was positive for lidocaine.

CONCLUSION

California Law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal. App. 3d 731.



In protecting himself or another, a person may use all force and means that he believes to be reasonably necessary and that would appear to a reasonable person in the same or similar circumstances to be necessary to prevent the injury that appears to be imminent. California Jury Instructions 5.30 and 5.32.

If one is confronted by the appearance of danger that one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. Actual danger is not necessary to justify the use of deadly force in self-defense. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal. App. 2d 577.

While attempting to detain Ricardo Esparza, numerous deputies who responded to [redacted] call for help observed Esparza to be in an agitated and uncooperative state. They also saw that Esparza was armed with two knives, and attempted to persuade him in both English and Spanish to drop the knife. Esparza refused to do so, and even armed himself with the lid of a cooking pot which he then used as a shield. Despite deputies' use of less than lethal Arwen and stun bag rounds, Esparza still refused to comply with orders to drop his weapons, continuing to wave his knife at deputies before retreating into a bedroom and closing the door. At this point, the deputies reasonably believed that Esparza might be arming himself with additional weapons with which he intended to attack them. When Esparza returned to the living room and raised his knife overhead as if preparing to throw it at deputies Diplock, McGee, and Vranek, they feared for their own lives and those of their fellow officers, and fired at Esparza in self-defense and defense of others as he threw his knife at them.

Having concluded that all three deputies acted lawfully in self-defense and in defense of others, we are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By
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(213) 974-4105

c: Deputy Jason Diplock, Serial #[redacted]
Deputy James McGee, Serial #[redacted]
Deputy Steven Vranek, Serial #[redacted]

